

# **IRREVOCABLE TRUST AGREEMENT**

This irrevocable trust agreement is made and entered into by and between \_\_\_\_\_, A Tennessee Corporation hereinafter referred to as the "Cemetery Company" and \_\_\_\_\_, in \_\_\_\_\_, Tennessee, a corporation having the right and power to act in a fiduciary capacity as Trustee, and hereinafter referred to as "Trustee". The Cemetery Company has its principal office in \_\_\_\_\_ County, Tennessee, and additional offices in \_\_\_\_\_ County, Tennessee.

## **ITEM 1**

### **TRUST PRINCIPAL AND ADDITIONS**

The Cemetery Company hereby transfers and conveys to the Trustee, in trust, the property described on Schedule 1 hereto attached upon terms and conditions hereinafter set forth. The Trustee hereby acknowledges receipt thereof and agrees to perform the duties herein imposed upon it. Upon the consent of the trustee the Cemetery Company from time to time may transfer and convey additional property or make deposits to this trust, to be held in accordance with the provisions hereof, and the receipt of any such additional property or deposits by the Trustee shall be indicative of the Trustee's consent to hold such property or deposits.

## **ITEM 2**

### **PURPOSE OF TRUST**

The purpose of this trust is to establish a perpetual and irrevocable trust fund in accordance with Tennessee Code Annotated, Section 46-2-302, for the benefit of owners and holders of burial spaces in \_\_\_\_\_. The net income from this trust shall be used for the improvement care of the cemetery grounds (as defined in Tennessee Code Annotated, Section 46-1-102(11)). The Cemetery Company, however, is bound by law and is herein bound to furnish such care only insofar as the net income derived from this trust fund will permit, and the Trustee shall not be required to look to the application of such income.

## **ITEM 3**

### **TERM OF TRUST**

This trust agreement shall be irrevocable, and the fund established hereby shall exist in perpetuity; provided, however, the Cemetery Company may change the Trustee, provided any successor trustee is a trust company approved by the Commissioner of the Department of Commerce and Insurance of the State of Tennessee or a state is national bank or a saving s and loan association having insurance of accounts as provided by the law.

## **ITEM 4**

### **DEPOSITS BY CEMTERY COMPANY**

4-a. AMOUNT: The Cemetery Company agrees to deposit in this trust fund not less than the following minimum amounts:

- (1) For land, but not including lawn crypts, fifty cents (50) per square foot of the land sold or twenty percent (20%) of the total sales price, whichever is the greater;
- (2) For a lawn crypt, twenty percent (20%) of the total sales price of the land excluding the lawn crypt, or fifty dollars (\$50), whichever is greater;
- (3) For a mausoleum, crypt or niche, not less than ten percent (10%) of the total sales price;
- (4) For the special care of any lot, grave, crypt, or niche or of a family mausoleum, memorial marker or monument, the full amount received;
- (5) For a commodity, the full amount received for memorial care.

The Cemetery Company shall be permitted to make deposits in excess of the foregoing minimum amounts; deliberate excess deposits shall not be credited toward any future liability. The Trustee shall not be required to see that such minimum amounts are paid in.

4-b. TIME OF DEPOSITS: Deposits shall be made by the Cemetery Company not later than thirty (30) days after the close of the month in which was received the final payment on the purchase price of each lot, grave space, crypt or niche, or of a family mausoleum, memorial, marker or monument. The Trustee shall not be required to see to the timeliness of any such deposits.

**ITEM 5**

**PAYMENT OF INCOME**

The Trustee shall pay the net income from this trust to the Cemetery Company at quarterly intervals, or at such other intervals as may be agreed upon from time to time by the parties hereto; provided the Trustee may in the trust officer's discretion pay such income to a third party when the cemetery is not being operated by its owner, as authorized by Section 46-2-302(e), T.C.A.

**ITEM 6**

**INVESTMENT**

In investing these funds, the Trustee shall exercise the judgement and care under the circumstances then prevailing which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering probable income and capital appreciation as well as the probable safety of their capital. Within the limits of the foregoing standard, the Trustee is authorized to acquire every kind of property, real, personal or mixed, and every kind of investment, specifically included, but not by way of limitation, corporate obligations of every kind, and stocks, preferred or common, which men of prudence, discretion and intelligence acquire for their own account.

**ITEM 7**

**ACCOUNTING**

The Trustee shall render each year to the Cemetery Company a written account of the administration of the trust, and its books shall at all reasonable times be open for inspection by the Cemetery Company to the Cemetery Company's properly authorized agent. The Trustee shall also furnish to the Commissioner of Commerce and insurance of the State of Tennessee such reports, as the Commissioner shall require.

**ITEM 8**

**COMPENSATION**

The Trustee shall receive as compensation for its services the fees provided for by its uniform schedule of fees adopted by its Board of Directors and in effect at the time the services are rendered; and in the absence of such schedule, it shall receive reasonable compensation for its services.

**ITEM 9**

**RESIGNATION**

The trustee reserves the right to resign as Trustee upon written notice delivered to the Cemetery Company.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

ATTEST: \_\_\_\_\_ BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_ BY: \_\_\_\_\_